

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DOROTHY JANET GUERRO,

Plaintiff,

vs.

Civil No. 13-322 SMV

**CAROLYN W. COLVIN, Acting
Commissioner of the Social Security
Administration,**

Defendant.

**ORDER GRANTING PLAINTIFF'S UNOPPOSED MOTION
FOR ATTORNEY FEES UNDER EAJA**

THIS MATTER is before the Court on Plaintiff's Unopposed Motion for Attorney Fees Pursuant to the Equal Access to Justice Act, with Memorandum in Support [Doc. 26], filed on May 5, 2015. Plaintiff requests attorney fees in the amount of \$7,500.00. The Commissioner does not oppose the motion and, therefore, does not object to Plaintiff's request for attorney fees. The Court being otherwise fully advised in the premises, **FINDS** that the motion is well-taken and will be **GRANTED**.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiff's Motion [Doc. 26] is **GRANTED**, and Plaintiff Dorothy Janet Guerro is authorized to receive \$7,500.00 for payment to her attorney for services before this Court, as permitted by the Equal Access to Justice Act, 28 U.S.C. § 2412, and in accordance with Manning v. Astrue, 510 F.3d 1246, 1255 (10th Cir. 2007).

IT IS FURTHER ORDERED that if Plaintiff's counsel is ultimately granted attorney fees pursuant to 42 U.S.C. § 406(b) of the Social Security Act, counsel shall refund the smaller

award to Plaintiff pursuant to Gisbrecht v. Barnhart, 535 U.S. 789, 796 (2002) (“Congress harmonized fees payable by the Government under EAJA with fees payable under § 406(b) out of the claimant’s past-due Social Security benefits in this manner: Fee awards may be made under both prescriptions, but the claimant’s attorney must refun[d] to the claimant the amount of the smaller fee.”) (internal quotation marks omitted).

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge
Presiding by Consent

Submitted By:

/s/Michael D. Armstrong

Michael D. Armstrong
Attorney for Plaintiff

Email approval on 5/5/15

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